

176 FERC ¶ 61,071  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Richard Glick, Chairman;  
Neil Chatterjee, James P. Danly,  
Allison Clements, and Mark C. Christie.

Terra-Gen, LLC

Docket No. IN21-7-000

ORDER APPROVING STIPULATION AND CONSENT AGREEMENT

(Issued August 2, 2021)

1. The Commission approves the attached Stipulation and Consent Agreement (Agreement) between the Office of Enforcement (Enforcement), and Terra-Gen, LLC (Terra-Gen). This order is in the public interest because it resolves on fair and equitable terms Enforcement's investigation under Part 1b of the Commission's regulations, 18 C.F.R. Part 1b (2020), into whether Terra-Gen violated any Commission rules, including 18 C.F.R. § 35.41(b), related to submitting false or misleading information to the California Independent System Operator (CAISO) about the physical capabilities of the wind-powered electric generation facility owned by Terra-Gen's subsidiary Cameron Ridge, LLC (Cameron Ridge) and whether Terra Gen, through Cameron Ridge violated CAISO Tariff § 4.2.1 by deviating its wind farm's output from CAISO's Dispatch Instructions.

2. Terra-Gen agrees to disgorge \$117,231 to CAISO, pay a civil penalty of \$510,962.43 to the United States Treasury, and be subject to compliance monitoring as provided in the Agreement. Terra-Gen stipulates to the facts set forth in Section II of the Agreement, but neither admits nor denies the violations.

**I. Facts**

3. As detailed in the Agreement, Enforcement and Terra-Gen stipulated to the following facts.

4. Terra-Gen's subsidiary Cameron Ridge owns and operates a wind-powered electric generation facility within CAISO that consists of fixed pitch turbines. Cameron Ridge's electric generation facility is a Qualifying Facility (QF) under the Public Utility Regulatory Policies Act of 1978, as amended (PURPA). Before the fourth quarter of 2014, Cameron Ridge sold its output under a power purchase agreement with its host utility. As that agreement expired, Cameron Ridge became a merchant generator selling into the CAISO market.

5. Under CAISO's Tariff, Variable Energy Resources (VERs) subject to real-time imbalance energy settlements could qualify for the Protective Measures settlement treatment based on either physical or contractual limitations on their ability to curtail output.<sup>1</sup> In order for a VER to qualify for Protective Measures settlement treatment based on a physical limitation, the tariff required that more than fifty percent of the resource must have been "composed of technology that is unable to curtail output and cannot be made to do so without significant investment."<sup>2</sup>

6. CAISO's Tariff specifically prohibited Protective Measures resources from submitting economic bids.<sup>3</sup> Instead, Protective Measures resources participated in the CAISO market by self-scheduling according to their forecast output. CAISO then dispatched the resources at that forecast in the Real-Time Market, and the resources produced as the wind allowed.

7. Terra-Gen applied for and was granted Participating Intermittent Resource Program (PIRP) Protective Measures settlement treatment for the Cameron Ridge QF on the basis of affidavits it submitted on May 28, 2014, representing that more than fifty percent of the resource was comprised of technology that was physically unable to curtail output, and could not be made to do so without significant investment.

8. CAISO self-scheduled Cameron Ridge at its forecast output and dispatched it according to that forecast. However, Cameron Ridge did not always produce in accordance with the wind flows and at times shut down some or all of its production when prices were negative. Cameron Ridge formulated and implemented a practice to reduce Cameron Ridge's output in response to negative prices.

9. Consistent with this practice, on 86 days between December 21, 2014 and March 26, 2017, Cameron Ridge shut down some or all of its production in response to price.

10. In September 2017, CAISO's Division of Market Monitoring (DMM) referred Terra-Gen to Enforcement for potential violations of the CAISO Tariff and for providing CAISO with false or misleading information in connection with the conduct described above.

---

<sup>1</sup> CAISO, Electric TCS and MBR (CAISO Tariff), § 4.8.3 Participating Intermittent Resource Program (PIRP) Protective Measures (effective May 1, 2014).

<sup>2</sup> CAISO Tariff § 4.8.3.2.2.1, Physical Limitations (effective May 1, 2014).

<sup>3</sup> CAISO Tariff § 11.12.1.2, PIRP Protective Measures Monthly Adjustments (effective May 1, 2014).

## **II. Violations**

11. CAISO Tariff § 4.2.1 requires that Market Participants fully and promptly comply with Dispatch Instructions, consistent with their capability to do so.<sup>4</sup> Although Cameron Ridge represented to CAISO that it was unable to curtail output due to physical limitations, Enforcement found that Cameron Ridge formulated, documented, and implemented a plan to reduce the output of the resource during periods of negative prices. Enforcement has concluded that Cameron Ridge deviated from CAISO's Dispatch Instructions due to market prices and curtailed its output, as opposed to not being able to perform due to physical limitations, e.g., changes in wind speed, and therefore violated CAISO Tariff § 4.2.1 each time it curtailed its resource in response to negative pricing.

12. Section 35.41(b) of the Commission's regulations requires that a Seller "provide accurate and factual information and not submit false or misleading information, or omit material information . . . in any communication with . . . Commission-approved independent system operators." Enforcement has concluded that Terra-Gen, for the purpose of qualifying for a settlement methodology that it believed would be economically favorable to it, submitted false or misleading information to CAISO on several occasions regarding the ability of Cameron Ridge to curtail output, in violation of Section 35.41(b) of the Commission's regulations. Specifically, Terra-Gen falsely represented that more than fifty percent of Cameron Ridge was comprised of technology that was physically unable to curtail output and, yet, Cameron Ridge was able to do so and did in fact curtail output in response to market prices.

## **III. Stipulation and Consent Agreement**

13. Enforcement and Terra-Gen have resolved the investigation by means of the attached Agreement.

14. Terra-Gen stipulates to the facts set forth in Section II of the Agreement, but neither admits nor denies the violations set forth in Section III of the Agreement.

15. Terra-Gen agrees to disgorge \$117,231 to CAISO and pay a civil penalty of \$510,962.43 to the United States Treasury.

---

<sup>4</sup> CAISO Tariff § 4.2.1 states: "With respect to this Section 4.2, all Market Participants. . . shall comply fully and promptly with the Dispatch Instructions and operating orders, unless such operation would impair public health or safety. A Market Participant is not required to comply with a CAISO operating order if it is physically impossible for the Market Participant to perform in compliance with that operating order. . . . The Market Participant shall immediately notify the CAISO of its inability to perform in compliance with the operating order."

16. Terra-Gen agrees to submit two annual compliance monitoring reports, in accordance with the terms of the Agreement.

**IV. Determination of Appropriate Sanctions and Remedies**

17. In recommending the appropriate remedy, Enforcement considered the factors described in the Revised Policy Statement on Penalty Guidelines,<sup>5</sup> including the fact that Terra-Gen cooperated with Enforcement during the Investigation.

18. The Commission concludes that the Agreement is a fair and equitable resolution of the matters concerned and is in the public interest, as it reflects the nature and seriousness of the conduct and recognizes the specific considerations stated above and in the Agreement.

19. The Commission directs Terra-Gen to make the civil penalty and disgorgement payments as required by the Agreement within ten days of the Effective Date of the Agreement.

20. The Commission directs Terra-Gen to comply with the provisions in the Agreement also requiring it to submit annual compliance reports for at least two years.

21. The Commission directs CAISO to allocate the disgorged funds consistent with Enforcement's approval of CAISO's plan for doing so.

The Commission orders:

The attached Stipulation and Consent Agreement is hereby approved without modification.

By the Commission.

( S E A L )

Debbie-Anne A. Reese,  
Deputy Secretary.

---

<sup>5</sup> *Enforcement of Statutes, Orders, Rules and Regulations*, 132 FERC ¶ 61,216 (2010).

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Terra-Gen, LLC

Docket No. IN21-7-000

**STIPULATION AND CONSENT AGREEMENT**

**I. INTRODUCTION**

1. The Office of Enforcement (Enforcement) of the Federal Energy Regulatory Commission (Commission) and Terra-Gen, LLC (Terra-Gen) enter into this Stipulation and Consent Agreement (Agreement) to resolve a nonpublic, preliminary investigation (the Investigation), conducted by Enforcement pursuant to Part 1b of the Commission's regulations, 18 C.F.R. Part 1b (2020), into Terra-Gen's participation in the California Independent System Operator Corporation's (CAISO) Participating Intermittent Resources Program (PIRP) and Terra-Gen's related representations to CAISO. The Investigation addressed whether Terra-Gen violated any Commission rules, including 18 C.F.R. § 35.41(b), related to submitting false or misleading information to CAISO about the physical capabilities of the wind-powered electric generation facility owned by Terra-Gen's subsidiary Cameron Ridge, LLC (Cameron Ridge) and whether Terra Gen, through Cameron Ridge violated CAISO Tariff § 4.2.1 by deviating its wind farm's output from CAISO's Dispatch Instructions.

2. Terra-Gen stipulates to the facts in Section II, but neither admits nor denies the alleged violations in Section III. Terra-Gen agrees to: (a) disgorge to CAISO \$117,231; (b) pay a civil penalty of \$510,962.43 to the United States Treasury; and (c) be subject to compliance monitoring as provided more fully below.

**II. STIPULATIONS**

3. Enforcement and Terra-Gen hereby stipulate and agree to the following facts.

4. Terra-Gen's subsidiary Cameron Ridge owns and operates a wind-powered electric generation facility within CAISO that consists of fixed pitch turbines. Cameron Ridge's electric generation facility is a Qualifying Facility (QF) under the Public Utility Regulatory Policies Act of 1978, as amended (PURPA). Before the fourth quarter of 2014, Cameron Ridge sold its output under a power purchase agreement with its host utility. As that agreement expired, Cameron Ridge became a merchant generator selling into the CAISO market.

5. As part of CAISO's transition to a 15-minute market structure following the

Commission's issuance of Order No. 764 in 2012,<sup>1</sup> CAISO determined that variable energy resources (VERs) satisfying certain eligibility criteria could apply to receive an alternative settlement treatment (referred to as Protective Measures settlement treatment) that included the netting of imbalance charges over a single month.<sup>2</sup>

6. The Commission accepted CAISO's alternative PIRP Protective Measures tariff provisions with an effective date of May 1, 2014.<sup>3</sup> Under the tariff's final eligibility criteria, VERs subject to real-time imbalance energy settlements could qualify for the Protective Measures settlement treatment based on either physical or contractual limitations on their ability to curtail output.<sup>4</sup> In order for a VER to qualify for Protective Measures settlement treatment based on a physical limitation, the tariff required that more than fifty percent of the resource must have been "composed of technology that is unable to curtail output and cannot be made to do so without significant investment."<sup>5</sup>

7. Consistent with the eligibility criteria requiring resources to have an inability to curtail, the tariff specifically prohibited Protective Measures resources from submitting economic bids.<sup>6</sup> Instead, Protective Measures resources participated in the CAISO market by self-scheduling according to their forecast output. CAISO then dispatched the resources at that forecast in the Real-Time Market, and the resources produced as the wind allowed (since they were incapable of curtailing, for either physical or contractual reasons, and had received Dispatch Instructions at their forecast).

8. Terra-Gen applied for and was granted PIRP Protective Measures settlement treatment for the Cameron Ridge QF on the basis of affidavits it submitted on May 28, 2014, representing that more than fifty percent of the resource was comprised of

---

<sup>1</sup> *Integration of Variable Energy Resources*, Order No. 764, 77 FR 41482 (July 13, 2012) FERC Stats. & Regs. ¶ 31,331 (2012) (Order No. 764). Order No. 764 followed the Commission's issuance of *Integration of Variable Energy Resources*, Notice of Proposed Rulemaking, FERC Stats. & Regs. ¶ 32,664 (2010) (Proposed Rule) and the *Integration of Variable Energy Resources*, Notice of Inquiry, FERC Stats. & Regs. ¶ 35,563 (2010) (Notice of Inquiry).

<sup>2</sup> This alternative settlement treatment, Protective Measures, was essentially a continuation of the treatment VERs received under CAISO's original PIRP tariff provisions (i.e., netting of imbalance charges) except with stricter eligibility criteria and a specified expiration date three years after the May 1, 2014, effective date.

<sup>3</sup> See *California Independent System Operator*, 146 FERC ¶ 61,204 (2014), *California Independent System Operator*, 148 ¶ 61,023 (2014), and *California Independent System Operator*, Docket No. ER14-480-002 (Nov. 13, 2014) (unpublished letter order).

<sup>4</sup> CAISO, Electric TCS and MBR (CAISO Tariff), § 4.8.3 PIRP Protective Measures (effective May 1, 2014).

<sup>5</sup> CAISO Tariff § 4.8.3.2.2.1, Physical Limitations (effective May 1, 2014).

<sup>6</sup> CAISO Tariff § 11.12.1.2, PIRP Protective Measures Monthly Adjustments (effective May 1, 2014).

technology that was physically unable to curtail output, and could not be made to do so without significant investment.

9. After Cameron Ridge entered the CAISO market as merchant generation, CAISO self-scheduled it at its forecast output and dispatched it according to that forecast. However, Cameron Ridge did not always produce in accordance with the wind flows and at times shut down some or all of its production when prices were negative. Cameron Ridge formulated and implemented a practice to reduce Cameron Ridge's output in response to negative prices.

10. Consistent with this practice, on 86 days between December 21, 2014 and March 26, 2017, Cameron Ridge shut down some or all of its production in response to price. Each of these 86 days contained at least one 15-minute dispatch interval where: (1) the resource was producing at least one MW output at the beginning of the interval; (2) generation dropped at least 50% during the interval; and (3) the Locational Marginal Price (LMP) was less than \$0.00 at the beginning of the interval.

11. In September 2017, CAISO's Division of Market Monitoring (DMM) referred Terra-Gen to Enforcement for potential violations of the CAISO tariff and for providing CAISO with false or misleading information in connection with the conduct described above.

Following the referral, Enforcement opened a preliminary, non-public investigation focusing on Terra-Gen's application for Protective Measures and its participation in CAISO's PIRP.

12. Terra-Gen cooperated with Enforcement during the investigation.

### **III. VIOLATIONS**

13. CAISO Tariff § 4.2.1 requires that Market Participants fully and promptly comply with Dispatch Instructions, consistent with their capability to do so.<sup>7</sup> Although Cameron Ridge represented to CAISO that it was unable to curtail output due to physical limitations, Enforcement found that Cameron Ridge formulated, documented, and implemented a plan to reduce the output of the resource during periods of negative prices. Enforcement has concluded that Cameron Ridge deviated from CAISO's Dispatch Instructions due to market prices and curtailed its output, as opposed to not being able to perform due to

---

<sup>7</sup> "With respect to this Section 4.2, all Market Participants... shall comply fully and promptly with the Dispatch Instructions and operating orders, unless such operation would impair public health or safety. A Market Participant is not required to comply with a CAISO operating order if it is physically impossible for the Market Participant to perform in compliance with that operating order... The Market Participant shall immediately notify the CAISO of its inability to perform in compliance with the operating order."

physical limitations, e.g., changes in wind speed, and therefore violated CAISO Tariff § 4.2.1 each time it curtailed its resources in response to negative pricing.

14. Section 35.41(b) of the Commission's regulations requires that a Seller "provide accurate and factual information and not submit false or misleading information, or omit material information ... in any communication with ... Commission-approved independent system operators." Enforcement has concluded that Terra-Gen, for the purpose of qualifying for a settlement methodology that it believed would be economically favorable to it, submitted false or misleading information to CAISO on several occasions regarding the ability of Cameron Ridge to curtail output, in violation of Section 35.41(b) of the Commission's regulations. Specifically, Terra-Gen falsely represented that more than fifty percent of Cameron Ridge was comprised of technology that was physically unable to curtail output and, yet, Cameron Ridge was able to do so and did in fact curtail output in response to market prices.

#### **IV. REMEDIES AND SANCTIONS**

15. For purposes of settling any and all claims, civil and administrative disputes and proceedings arising from or related to Terra-Gen's participation in the CAISO PIRP program, Terra-Gen agrees with the facts as stipulated in Section II of this Agreement, but neither admits nor denies the violations in Section III of the Agreement. Terra-Gen further agrees to undertake obligations set forth in the following paragraphs.

##### **A. Civil Penalty**

16. Terra-Gen shall pay a civil penalty of \$510,962.43 to the United States Treasury by wire transfer within ten days of the Effective Date of this Agreement, as defined herein.

##### **B. Disgorgement**

17. Terra-Gen shall disgorge to CAISO \$117,231 within ten days of the Effective Date of this Agreement, to be allocated by CAISO in its discretion for the benefit of CAISO customers and upon approval by Enforcement of CAISO's plan for doing so. This disgorgement represents Terra-Gen's unjust profits from imbalance energy settlements which can be positive when reducing wind output during negative price periods.

##### **C. Compliance**

18. Terra-Gen shall make two annual compliance monitoring reports to Enforcement for two years following the Effective Date of this Agreement. The first report shall be submitted no later than thirty days after the first anniversary of the Effective Date. The second annual compliance monitoring report shall be submitted one year from the date of the first report. Within six months following the receipt of the second annual report,



Enforcement may, at its sole discretion, require Terra-Gen to submit reports for one additional year.

19. Each compliance monitoring report shall: (1) identify any known violations of the CAISO Tariff or Commission regulations during the applicable period, including a description of the nature of the violation and what steps were taken to rectify the situation; (2) describe all compliance measures and procedures related to compliance with the CAISO Tariff and Commission regulations that Terra-Gen instituted or modified during the applicable period; and (3) describe all CAISO and Commission-related compliance training that Terra-Gen administered during the applicable period regarding its offering of resources into the CAISO market, including the dates such training occurred, the topics covered, and the procedures used to confirm which personnel attended. Each compliance monitoring report shall also include an affidavit executed by an officer of Terra-Gen stating that it is true and accurate to the best of his/her knowledge. Upon request by Enforcement, Terra-Gen shall provide to Enforcement documentation supporting the contents of its reports.

## **V. TERMS**

20. The “Effective Date” of this Agreement shall be the date on which the Commission issues an order approving this Agreement without material modification. When effective, this Agreement shall resolve the matters specifically addressed herein that arose on or before the Effective Date as to Terra-Gen and any affiliated entity, and their respective agents, officers, directors, or employees, both past and present.

21. Commission approval of this Agreement without material modification shall release Terra-Gen and forever bar the Commission from holding Terra-Gen, any affiliated entity, any successor in interest, and their respective agents, officers, directors, or employees, both past and present, liable for any and all administrative or civil claims arising out of the conduct covered by the Investigation, including conduct addressed and stipulated to in this Agreement, which occurred on or before the Agreement’s Effective Date.

22. Failure by Terra-Gen to make the civil penalty and disgorgement payments, or to comply with the compliance reporting obligations agreed to herein, or any other provision of this Agreement, shall be deemed a violation of a final order of the Commission issued pursuant to the Federal Power Act (FPA), 16 U.S.C § 791a, and may subject Terra-Gen to additional action under the enforcement provisions of the FPA.

23. If Terra-Gen does not make the required civil penalty or disgorgement payments described above within the times agreed by the parties, interest shall begin to accrue at the rates specified at 18 C.F.R. § 35.19a(a)(2)(iii) from the date that payment is due, in addition to any other enforcement action and penalty that the Commission may take or impose.

24. This Agreement binds Terra-Gen and its agents, successors, and assignees. This

Agreement does not create any additional or independent obligations on Terra-Gen, or any affiliated entity, its agents, officers, directors, or employees, other than the obligations identified in this Agreement.

25. The signatories to this Agreement agree that they enter into the Agreement voluntarily and that, other than the recitations set forth herein, no tender, offer or promise of any kind by any member, employee, officer, director, agent or representative of Enforcement or Terra-Gen has been made to induce the signatories or any other party to enter into the Agreement.

26. Unless the Commission issues an order approving the Agreement in its entirety and without material modification, the Agreement shall be null and void and of no effect whatsoever, and neither Enforcement nor Terra-Gen shall be bound by any provision or term of the Agreement, unless otherwise agreed to in writing by Enforcement and Terra-Gen.

27. In connection with the civil penalty provided for herein, Terra-Gen agrees that the Commission's order approving the Agreement without material modification shall be a final and unappealable order assessing a civil penalty under section 316A(b) of the FPA, 16 U.S.C. § 825o-1(b). Terra-Gen waives findings of fact and conclusions of law, rehearing of any Commission order approving the Agreement without material modification, and judicial review by any court of any Commission order approving the Agreement without material modification.

28. This Agreement can be modified only if in writing and signed by Enforcement and Terra-Gen, and any modifications will not be effective unless approved by the Commission.

29. Each of the undersigned warrants that he or she is an authorized representative of the entity designated, is authorized to bind such entity, and accepts the Agreement on the entity's behalf.

30. The undersigned representative of Terra-Gen affirms that he or she has read the Agreement, that all of the matters set forth in the Agreement are true and correct to the best of his or her knowledge, information and belief, and that he or she understands that the Agreement is entered into by Enforcement in express reliance on those representations.

31. This Agreement may be executed in duplicate, each of which so executed shall be deemed to be an original.

Agreed to and Accepted:

A handwritten signature in black ink, appearing to read "Janel Burdick", written over a horizontal line.

Janel Burdick  
Acting Director, Office of  
EnforcementFERC

A handwritten signature in blue ink, appearing to read "Matthew W. Scobee", written over a horizontal line.

Matthew W. Scobee  
Sr. Vice President &  
COOTerra-Gen, LLC

Document Content(s)

IN21-7-000.DOCX.....1